

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RODNEY DAVIS,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION FILE NO.:
	:	1:16-CV-4191-WSD-JCF
NATIONWIDE-SOUTHEAST,	:	
INC., et al.,	:	
	:	
Defendants.	:	

FINAL REPORT AND RECOMMENDATION

Plaintiff filed this action alleging, *inter alia*, violations of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, *et seq.*, on November 8, 2016 (Doc. 1). To date, Plaintiff has not served Defendants with the summons and complaint.

FED.R.CIV.P. 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Because more than 90 days had elapsed since Plaintiff filed his Complaint, the Court entered an Order on February 7, 2017 directing Plaintiff to either submit documentation that service was waived or timely effectuated or to show cause,

within 14 days from the date of entry of the Order, why his complaint should not be dismissed pursuant to Rule 4(m). (Doc. 2). Plaintiff failed to comply with the Court's Order. Therefore, by subsequent Order entered on February 22, 2017 (Doc. 3), Plaintiff was directed to comply with the Court's February 7th Order within 14 days by effectuating service upon the defendants and showing cause why his complaint should not be dismissed for failure to serve the defendants and comply with the Court's Orders. Plaintiff was advised that failure to comply with the Court's Order would result in a recommendation to the District Judge that his complaint be dismissed. Plaintiff has failed to comply with the Court's Order in its entirety.

Accordingly, it is **RECOMMENDED** that Plaintiff's complaint be **DISMISSED, without prejudice**, for their failure to serve Defendants within 90 days of filing his complaint pursuant to FED.R.CIV.P. 4(m) and pursuant to LR 41.3A(2), NDGa. for his failure to comply with two Orders of the Court. The Clerk is **DIRECTED** to terminate the District Court's referral of this action to the undersigned.

IT IS REPORTED AND RECOMMENDED this 9th day of March, 2017.

/s/ J. CLAY FULLER

J. CLAY FULLER

United States Magistrate Judge